

**DENIAL**

## RESOLUTION NO. A-\_\_\_\_\_

1 WHEREAS, Wachal Pet Health Center, hereinafter Appellant, is expanding its  
2 pet health center by converting adjacent retail space into an office and employee  
3 breakroom for the pet health center located at 201 Capitol Beach Blvd., Suite 10; and

4 WHEREAS, said addition contains 611 sq. ft. of gross floor area as defined in  
5 Lincoln Municipal Code § 27.82.040; and

6 WHEREAS, under the Arterial Street Impact Fee Schedules a pet health center  
7 is classified as medical office space; and

8 WHEREAS, under the Arterial Street Impact Fee Schedules the former retail  
9 space was classified as shopping center under 100,000 sq. ft.; and

10 WHEREAS, pursuant to Lincoln Municipal Code § 27.82.050(c)(4) the Impact  
11 Fee Administrator calculated the arterial street impact fees for the medical office space  
12 based upon the net increase in the fee for the medical office space as compared to its  
13 previous use as retail space using the arterial street impact fee schedule beginning  
14 January 1, 2004. Specifically, the fee was calculated by first multiplying the unit of  
15 measure for medical office space (\$4.160/ sq. ft.) x 611 sq. ft. = \$2,541.76. Then the  
16 credit for the existing retail space was calculated by multiplying the unit of measure for  
17 retail space (\$2.178/ sq. ft.) x 611 sq. ft. = \$1,330.70. The difference between the two  
18 calculations resulted in a net increase of \$1,211.00; and

19 WHEREAS, the Appellant filed its notice of appeal appealing the impact fee  
20 determination and requesting that the arterial street impact fees be waived or reduced

1 as Appellant's new use of the former retail space will produce no additional demand for  
2 arterial street impact fee facilities as the expansion area does not include additional  
3 exam or veterinary procedure space or kennel space and that strict application of the  
4 impact fee ordinance's calculations under these circumstances work an unjust and  
5 undue burden on the Appellant; and

6 WHEREAS, the City Council finds that the impact fee was correctly calculated  
7 and that there are no unusual circumstances of the development which demonstrate  
8 that the application of the fee to the development would be unfair or unjust as the  
9 requested waiver or reduction based upon the proposed use of the additional floor area  
10 does not meet any of the stipulations or conditions required for reduction in or  
11 exemption from arterial street impact fees.

12 NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of  
13 Lincoln, Nebraska:

14 That the impact fee notice of appeal filed by Wachal Pet Health Center on  
15 December 20, 2004 is hereby denied for the following reasons:

16 1. The impact fee ordinance requires the arterial street impact fee to be  
17 calculated based upon the net increase in the fee for the expanded medical office  
18 space as compared to its previous use as retail space.

19 2. The arterial street impact fee schedule is based upon the ITE traffic  
20 generation manual. In the manual the medical office trip is based upon gross floor  
21 area, not upon any particular use of the medical office.

22 3. The impact fee determination accurately reflects the impact of the  
23 Appellant's proposed use based upon the gross floor area of the expansion.

1           4.     The office and employee breakroom could be converted to additional  
2 exam or veterinary procedure space or kennel space.

3           5.     Appellant's argument that particular space will not be utilized for uses  
4 generating traffic is no different than other uses could make.

5           6.     The requested exemption does not meet any of the stipulations or  
6 conditions required for reduction or exemption from arterial street impact fees.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Approved this \_\_\_\_ day of \_\_\_\_\_, 2005:

\_\_\_\_\_  
Mayor